

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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HASSAN CHUNN; NEHEMIAH McBRIDE;
AYMAN RABADI by his Next Friend Migdaliz
Quinones; and JUSTIN RODRIGUEZ, by his
Next Friend Jacklyn Romanoff, individually
and on behalf of all others similarly situated,

Petitioners,

-against-

ORDER
20-cv-1590 (RPK)

WARDEN DEREK EDGE,

Respondent.

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RACHEL P. KOVNER, United States District Judge:

A teleconference was held this afternoon at which the parties discussed alternative proposals for petitioners' expert, Dr. Homer Venters, to speak with inmates while inspecting the Metropolitan Detention Center ("MDC") on April 23, 2020.

Having considered those proposals, the Court directs that Dr. Venters be permitted cell-front access to inmates for brief conversations, subject to the inmates' willingness to speak to Dr. Venters. Dr. Venters should maintain an appropriate social distance from the inmates during those exchanges. And other persons participating in the inspection should maintain an appropriate social distance from Dr. Venters. Petitioners' counsel has stated that Dr. Venters will note the names and cell numbers of inmates with whom he speaks, when those inmates consent. If Dr. Venters relies on anonymous accounts in preparing an expert report, respondent will be free to make any arguments that he wishes to make about the reliability of such accounts, and petitioners will be free to make any arguments they wish in response.

A cell-front protocol is likely to yield more relevant information and to be less burdensome than respondent's proposed alternative in which inmates are removed from their cells and placed in a common area for any discussions. The alternative protocol would add at least some measure of delay during a time-limited inspection. As a result, it may well reduce the number of inmates with whom Dr. Venters could feasibly speak and the amount of relevant information he may obtain. The alternative protocol would also be more onerous, rather than less onerous, for MDC personnel, because MDC staff would be required to remove inmates from cells before such questioning and then return them to their cells afterward.

Respondent notes that some inmates may prefer not to be questioned in their cells due to their proximity to other inmates. But other inmates may prefer to speak to Dr. Venters without first being removed from their cells. The privacy of inmates who do not wish to engage in cell-front conversations will be adequately protected because those inmates are free to decline to speak to Dr. Venters.

SO ORDERED.

/s/ Rachel Kovner
RACHEL P. KOVNER
United States District Judge

Dated: Brooklyn, New York
April 17, 2020